

Remarks

Amendments

Claim 21 has been amended to recite: “An isolated nucleic acid molecule comprising a nucleotide sequence as shown in SEQ ID NO:1.” The amendment is supported by the specification which discloses that the “nucleotide acids of the invention can also be isolated or in a cell” (¶ 36, line 1) and “[p]referably the nucleic acid will have the nucleotide sequence of one of the three artificial *p53* open reading frames as shown in SEQ ID NO: 1-3” (¶ 31, lines 1-2).

New claim 52 is directed to a cell comprising the nucleic acid molecule of claim 21. Claim 52 is supported by the specification at ¶ 36, line 1, quoted above.

These amendments introduce no new matter.

The Rejection of Claims 1-21 Under 35 U.S.C. § 112, First Paragraph

Claims 1-21 have been rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Claims 1-20 have been canceled.

Applicant respectfully traverses the rejection as it is applied to claim 21.

The Office Action asserts that:

The claims are problematic with regard to written description over the requirement that the nucleic acid molecule be ‘non-naturally occurring’ insofar as this requirement may be construed so as to require that the particular coding sequence is not [a] sequence naturally occurring in any human cell . . . The specification does not provide any written description guidance as to what physical characteristics differentiate the naturally occurring versus the non-naturally occurring molecules.

Page 3, line 23 to page 4, line 6. Claim 21, as amended, is directed to an isolated nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO:1. It no longer recites

“non-naturally occurring.” Therefore, the specification need not describe characteristics of non-naturally occurring nucleic acid molecules.

Applicant respectfully requests withdrawal of this rejection.

The Rejection of Claims 1-20 Under 35 U.S.C. § 103(a)

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Farrell *et al.* (EMBO (1991) 10:2879-2887) as supported by GenBank Accession Number X60012, and further in view of Seed *et al.* (U.S. Patent No. 6,114,148).

Claims 1-20 have been canceled. Thus, the rejection is moot. Applicant respectfully requests withdrawal of this rejection.

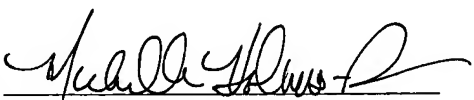
The Rejection of Claims 1-20 Under 35 U.S.C. § 103(a)

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Farrell *et al.* (EMBO (1991) 10:2879-2887) as supported by GenBank Accession Number X60012, and further in view of Weiss (U.S. Patent No. 6,277,322).

Claims 1-20 have been canceled. Thus, the rejection is moot. Applicant respectfully requests withdrawal of this rejection.

Respectfully submitted,

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